

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>LARRY D. NICHOLAS</b>	:	<b>CIVIL ACTION</b>
<b>Petitioner,</b>	:	
	:	
<b>v.</b>	:	<b>NO. 06-1680</b>
	:	
<b>MR. GEORGE PATRICK, The DISTRICT</b>	:	
<b>ATTORNEY OF THE COUNTY OF</b>	:	
<b>PHILADELPHIA and THE ATTORNEY</b>	:	
<b>THE ATTORNEY GENERAL OF THE</b>	:	
<b>STATE OF PENNSYLVANIA</b>	:	
<b>Respondents.</b>	:	

**ORDER**

**AND NOW**, this 16<sup>th</sup> of January, 2007, 2006, upon consideration of the pleadings and the record in this case, and after review of the Report and Recommendation of United States Magistrate Judge Thomas J. Rueter dated December 22, 2006, and petitioner's Objections to the Magistrate's Report and Recommendation, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Thomas J. Rueter dated December 22, 2006, is **APPROVED** and **ADOPTED**;
2. Petitioner's Objections to the Report and Recommendation are **OVERRULED**;<sup>1</sup>
3. Larry Nicholas' Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 is **DENIED**; and,

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<sup>1</sup>Petitioner, in the Objections, argues that the Magistrate Judge committed error in addressing the claims related to petitioner's identification by witness, Tahirah Smith. The Court is in complete agreement with that part of the Report and Recommendation in which the Magistrate Judge addresses all of the issues presented in the Objections.

4. A certificate of appealability will not issue on the ground that petitioner has not made a substantial showing of a denial of a constitutional right as required under 28 U.S.C. § 2253(c)(2).

**BY THE COURT:**

/s/ Honorable Jan E. DuBois  
**JAN E. DUBOIS, J.**